

AG Contract No. KR00 2033TRN
ADOT ECS File No JPA 00-174
Project: TEA BIS-0-(1)P
TRACS. 000 CH BIS SL447 01D/C
Section: Construct Sidewalk Improvements

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF BISBEE

THIS AGREEMENT is entered into 29 November, 2000
pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended between the
STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the
"State") and the City of Bisbee, acting by and through its Mayor and City Council, (the "City")

I. RECITALS

1 The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City

3. Congress has authorized appropriations for, but not limited to, transportation enhancements including roadside attractions of historic preservation.

4. Such project within the boundary of the City has been selected by the City; the survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

NO 24340
Filed with the Secretary of State

Date Filed: 11/29/00

Betsy Bayless
Secretary of State

B. Dick V. Grunewald

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The City, in order to obtain federal funds for the construction of the project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City and FHWA.

7. The work embraced in this agreement, to be administered by the City, and the estimated costs are as follows: Construct renovations to sidewalks

Design

Federal Aid Funds @ 94.3%	\$18,860.00
City Funds @ 5.7%	\$ 1,140.00
Total Design Cost	\$20,000.00

Construction

Estimated Construction Cost	\$192,400.00
Federal Aid Funds @ 94.3%	\$169,740.00
City Funds @ 5.7%	\$ 10,260.00
Additional City Funds	\$ 12,400.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the City with the aid and consent of the State and the FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the State, enter into a contract(s) with a firm(s) to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of applicable standards and guidelines. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur any expenditure in excess. Such changes require the prior approval of the City.

2. Prior to the solicitation of bids, the City shall set aside sufficient funds in the amount determined to be necessary to match federal funds in the ratio required.

3. Upon completion of construction, the City shall ensure appropriate and proper maintenance of the structure, unless assumed by another entity.

4. The City shall allow public access to the structure and grounds during normal business hours, including, but not limited to, tours and announced public meetings.

5 The City will provide personnel to supervise construction. The FHWA will participate in the cost of construction supervision provided by the City at the pro rata established in the Project Agreement for up to 15 percent of the cost of construction. Construction supervision costs not participated in by FHWA shall be borne by the City. All construction project change orders are to be copied to the State.

6 The City will complete the project in accordance with approved plans and specifications and the requirements of the relevant State and federal statutes, rules, or regulations. In the event the City fails to comply with the plans, specifications or any relevant State or federal statutes, rules, or regulations, the City shall hold the State harmless from any claims or costs incurred by the State as a result of the City's failure to comply.

7. State employees may perform any inspections of the project or audit any books or records of the City in order for the State to satisfy itself that the monies on the project have been spent and the project completed in accordance with the plans and specifications, statutes, rules, and regulations of the State and federal government.

III. MISCELLANEOUS PROVISIONS

1 The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2 The cost of the construction and construction engineering work covered by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual, unless assumed by another entity.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5 The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6 In the event of any controversy which may arise out of this agreement, the parties hereby agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518

7 All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix, AZ. 85007

City of Bisbee
City Manager
118 Arizona Street
Bisbee, AZ. 85603

8. Attached hereto is the written determination of each party's legal counsel the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF BISBEE

STATE OF ARIZONA

Department of Transportation

By



LYLE REDDY
Mayor

By


CATHERINE J. HEGEL
Contract Administrator

ATTEST

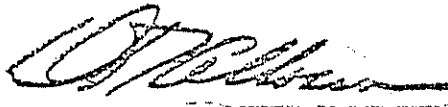
By


HELEN I. LEHR
City Clerk

RESOLUTION

BE IT RESOLVED on this 24th day of September 2000, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Bisbee for the purpose of defining responsibilities for designing and constructing sidewalk renovations.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

Resolution 00-24

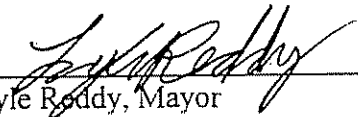
**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE,
COUNTY OF COCHISE, STATE OF ARIZONA, APPROVING AN
INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF
TRANSPORTATION (ADOT) FOR MAIN STREET SIDEWALK RENOVATIONS**

WHEREAS, the City of Bisbee desires to enter into an agreement with the Arizona Department of Transportation for the purpose of completing the project called "Main Street Sidewalk Renovations."

NOW, THEREFORE, BE IT RESOLVED, the Council of the City of Bisbee does hereby approve to enter into an agreement with the Arizona Department of Transportation for the purpose of completing the project called "Main Street Sidewalk Renovations."

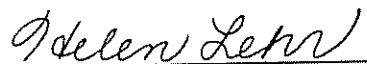
BE IT FURTHER RESOLVED, Mayor Lyle Reddy is authorized to execute this Intergovernmental Agreement on behalf of the City Council of the City of Bisbee.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee this 7th day of November, 2000.



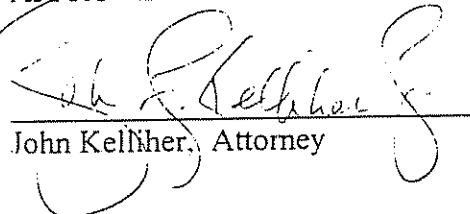
Lyle Reddy, Mayor

ATTEST:



Helen Lehr, City Clerk

APPROVED AS TO FORM:

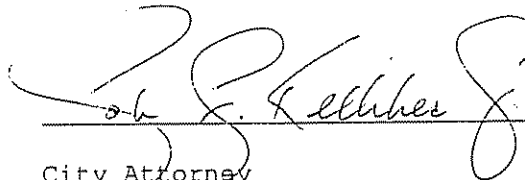


John Kellher, Attorney

APPROVAL OF THE BISBEE CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF BISBEE and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this _____ day of _____, 2000.



City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL

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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR00-2033TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED November 17, 2000.

JANET NAPOLITANO
Attorney General

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:et/656388

Enc.